CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Youngs Creek Mining Co. Railroad Easement
Proposed Implementation Date:	July 2012
Proponent:	Youngs Creek Mining Company, LLC
Location:	SE¼SW¼ of Section 22, Township 9 South, Range 40 East (Common Schools)
County:	Big Horn County

I. TYPE AND PURPOSE OF ACTION

Youngs Creek Mining Company, LLC (YCMC) is proposing to construct a railroad spur that would split off from the existing BNSF railroad south of the Decker Coal Mine and then run in a west/southwesterly direction to their proposed mine in Wyoming, just across the Montana-Wyoming state line. YCMC applied for an easement to cross Trust land described as Section 36, T9S, R39E in 2009 and that easement was tabled by the Land Board pending determination of appropriate compensation to the Trust. In the meantime, YCMC determined that they also needed an easement across Trust land that is the subject of this EA and described as SE¼SW¼ of Section 22, T9S, R40E. This parcel is located east of the Trust land that was the subject of the 2009 Land Board meeting. Once Youngs Creek approached the Southern Land Office regarding the need for an easement on the subject Section 22, both parties agreed that the Section 36 application would be delayed for Land Board consideration until both applications were ready for their concurrent consideration.

YCMC provided information to the Land Board in support of their application for easement on Section 36, T9S, R39E that discussed the reasons for the location of the easement. There are constraints that the spur line is trying to work around or avoid and they include: Montana Highway 314; the Tongue River; and coal deposits generally located north of Highway 314. A location further north of the proposed route would sterilize these federal coal resources. A location south of the proposed route would: require an additional five million cubic yards of fill; bring the railroad within 500 feet of the Tongue River; remove acreage from existing irrigated agricultural lands; and be within 1,700' feet of an existing residence.

The easement on Section 22 was initially requested to be 600' in width and encumber ±14.46 acres of Trust land for the railroad, as well as associated maintenance road, electrical and telecommunication installation. The easement area was expanded to include a ±2.18 acre portion of the far southwest portion of the Trust land that would become an unusable remnant if the easement were issued. Therefore, the entire easement area requested by YCMC is ±16.64 acres. The Southern Land Office recommends that the easement be issued for a term of 40 years, based on the discussion below.

Youngs Creek Mining Company anticipates that construction of the railroad could begin as early as July of 2012 and would require 18 months to complete. The mine could begin coal production in 2013 or 2014 with a 23 year minimum mine life. This assumes a "full capacity" production schedule and it is likely that the operation will be much longer. It is possible that Youngs Creek Mining could develop additional reserves, including federal coal in Montana, to extend the life of the railroad.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

No formal public scoping was performed by DNRC for this proposed project; however there was extensive discussion on the previous easement application at the Land Board in 2009. The Southern Land Office (SLO) required Youngs Creek Mining Company (YCMC) to contact the State Oil & Gas lessee for the parcel, Fidelity Exploration & Production Company, to establish if the requested action would impact that their active Coalbed Methane wells on the Trust Land. Fidelity did respond back to the DNRC that the proposed railroad would not impact their lease interest. Additionally, the SLO required YCMC to obtain a letter from Decker Coal allowing the

railroad easement since it would overlap an existing easement that was approved by the state in 1971. At this time, YCMC had not obtained this consent letter from Decker Coal. DNRC will allow the easement to be approved until this consent is obtained from Decker Coal.

In addition, two members of the Southern Land Office (SLO) staff, Gary Brandenburg, Land Use Specialist and Jeff Bollman, Area Planner performed a site inspection on 28 October 2010 after initial discussions had occurred with YCMC regarding the new easement area. The main purpose of the site visit was to perform a cultural resource inspection and also look for any other issues that needed to be addressed in the easement review process.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

- Montana Department of Environmental Quality: Stormwater Discharge Permit; 401 Water Quality Certification; and 318 Authorization
- US Army Corps of Engineers: Jurisdictional Wetlands Determination; and Clean Water Act 404 Permit
- Big Horn County: Weed Survey of rail corridor and 310 Permit, if Squirrel Creek is a perennial stream
- Wyoming Department of Environmental Quality: Coal permit application for mine and the portion of rail spur that is located within Wyoming. Permit obtained 25 July 2011.

3. ALTERNATIVES CONSIDERED:

Proposed Alternative: Issue a ±16.64 acre easement to Youngs Creek Mining Company, LLC to allow a railroad spur, as well as associated maintenance road, electrical and telecommunication installation on Trust land described as SE¼SW¼ of Section 22, T9S, R40E for a 40 year term.

No Action Alternative: Deny the request by Youngs Creek Mining Company, LLC for a ±16.64 acre railroad easement with associated maintenance road, electrical and telecommunication installation on Trust land described as SE¼SW¼ of Section 22, T9S, R40E.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

The proposed easement request would allow the construction of a railroad spur in the far southwest corner of the Trust land south of Montana Highway 314 and west of the existing BNSF line. The proposed easement would encumber ±16.64 acres of Trust land. The railroad spur would require significant amounts of fill to accommodate the grade limitations of a rail line. This parcel of Trust land will have between 40 to 60 feet of fill along the length of the spur in addition to a planned vehicle underpass to allow the continued use of an existing road that passes through the Trust land.

The predominant soil type in the easement area is the Midway-Thedalund complex which consists mainly of a silty clay loam, however it begins to transition to sandy loams as it gets closer to the Tongue River. Both of these soils have limitations with regard to infrastructure constructed on them which include: depth to soft bedrock, low strength, slope and shrink-swell. As stated above, the entire route across the Trust land will be on imported fill, so appropriate material and design can be utilized to minimize any limitations in the soils. The proposed action is not expected to have significant impacts on geology or soils.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

The subject Trust land does not have any surface water or drainages that run through it where the proposed easement is located. No significant impacts to water quality or quantity are expected if the proposed action is implemented.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

No significant impact is expected to air quality in the surrounding air shed, even during construction stages where heavy equipment will be in use. Impacts during construction would be of a relatively short duration due to the relatively limited length of the construction project. There would also be air pollution generated from trains traveling across the Trust land. The project proponent anticipates an average of 6 trains per day (3 full and 3 empty) would utilize the rail spur based on the permitted capacity of the mine.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

The proposed easement would alter the vegetative cover within a portion the easement area due to importing of fill to accommodate the grade constraints of the railroad. The grasses on this parcel are less productive than the state average for grazing and would result in a decrease of ±5 acres of surface area on the parcel, however there is currently not a grazing lessee on this tract, so there would be no loss of grazing income to the Trust. The proposed action will result in an impact to vegetative cover due to the required fill, however the impacts of are not expected to be significant. The easement term is recommended to be 40 years, so at the end of the term, the railroad and fill would be removed and the parcel's vegetative cover would be restored.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

The proposed easement would create a corridor with fill 40-60 feet high, which could have an impact on wildlife in addition to the easement area being fenced off separately. The proposed action could impact migration that occurs across the Trust land from the Tongue River to the south to other habitat located north of the Trust land. However, Highway 314 is presently fenced separately and creates a barrier now, in addition to the existing BNSF railroad on the east portion of the Trust land. Additionally, north of the Highway is the Decker Coal mine, so there is not likely to be high wildlife use on that property. A vehicle underpass is proposed to be installed to allow preserve access on an existing road and this could also be used by wildlife to pass under the tracks. No significant impacts to terrestrial, avian and aquatic life and habitats are expected to occur as a result of implementing the proposed alternative.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

A proposed project area search of the Montana Natural Heritage Program database identified sixteen vertebrate animals that are listed as a species of concern, threatened, or endangered and they include: great blue heron, bald eagle, golden eagle, greater sage-grouse, yellow-billed cuckoo, sage thrasher, loggerhead shrike, brewer's sparrow, grasshopper sparrow, sauger, black-tailed prairie dog, spiny softshell, greater short-horned lizard, common sagebrush lizard, western hog-nosed snake and milksnake.

Great Blue Heron is listed as a species of concern and is known to occupy the general area of the proposed project, specifically near the Tongue River and the Tongue River Reservoir. According to the Montana Field Guide, in recent surveys by MT FWP all of the nesting occurred in mature cottonwood stands and there are no trees on the subject Trust land. Additionally, the proposed project is separated from the Tongue River by the existing BNSF railroad, so any nesting that may be occurring nearby is already impacted by that railroad.

Bald Eagle is listed as a sensitive species and is known to exist in the general area of the proposed project, especially east of the project area along the Tongue River and then north along the Tongue River Reservoir. The Montana Field Guide notes that nesting sites are in mature tree stands, which do not exist on the proposed project site. The site could potentially be used for foraging; however, the project area is relatively small compared to the overall undeveloped land in the area.

Golden Eagle is listed as a sensitive species and has been observed in the general area of the proposed project. The treeless proposed project area would not support nesting activities, but could provide area for hunting. However, the proximity of the existing Highway immediately to the north and BNSF railroad immediately to the east may discourage use of the Trust land.

Greater Sage-Grouse is listed as a sensitive species and is known to exist in the vicinity of the proposed project based on environmental reviews completed for Coalbed Methane well developments in the area. The proposed action is not expected to have a significant impact based on the fact that the easement would be near an existing Highway and railroad which makes the area less desirable as Sage-Grouse habitat.

Yellow-Billed Cuckoo is listed as a sensitive species. According to the Montana Field Guide, they are known to be in Montana in June and July. Their preferred habitat consists of deciduous riparian woodland areas, which do not exist in the proposed project area. The subject property could be used for foraging, but implementation of the proposed alternative is not expected to have a significant impact.

Sage Thrasher is listed as a sensitive species and has been observed in the vicinity of the proposed project area. The Montana Field Guide notes that sage thrasher abundance is positively correlated with sage cover and the subject tract has relatively minimal sage coverage.

Loggerhead Shrike is listed as a sensitive species and is in Montana from April or May to August or September. The Montana Field Guide states that nesting occurs in sagebrush, bitterbush or greasewood and the proposed project area is not abundant with any of these plants.

Brewer's Sparrow is listed as a sensitive species and is in Montana from approximately mid-May to mid-August and has been observed in the vicinity of the subject parcel. According to the Montana Field Guide, the brewer's sparrow prefers nesting in large sagebrush, which is not common in the proposed project area.

Grasshopper Sparrow is listed as a species of concern. The Montana Field Guide does not contain much information on habitat, but the proposed project area contains open prairie that could support the grasshopper sparrow.

Sauger is listed as a sensitive species and is known to inhabit the Tongue River, which is over ¼-mile east of the proposed project area and separated by the existing BNSF railroad.

Black-tailed Prairie Dog is listed as a sensitive species and has been observed south of the subject tract. The site does contain habitat that would be preferable for a town and there is no current prairie dog activity on the proposed project area.

Spiny Softshell is listed as a sensitive species. Their habitat consists of rivers and river impoundments and they may occupy areas in or around the Tongue River which is located approximately ¼-mile east of the proposed easement area.

Greater Short-horned Lizard is listed as a sensitive species. The proposed easement area has many of the characteristics of the habitat of the greater short-horned lizard. The Montana Field Guide shows their Montana range as the eastern 2/3rds of the state, essentially the portion of the state east of the Rocky Mountain Front. During the field inspection by Southern Land Office staff of the easement corridor in Section 36, SLO staff did

observe a Greater Short-horned Lizard north of the easement area. There were no observations during the site inspection of Section 22. Any impact of the proposed action on their habitat will be minimal in comparison to their entire range.

Common Sagebrush Lizard is listed as a sensitive species. The proposed easement area has some characteristics that are desirable for the common sagebrush lizard habitat. The Montana Field Guide shows an extensive range, that runs roughly east and south of the Missouri River. The proposed action is not expected to have a significant effect based on its extensive range and the relatively small easement area.

Western Hog-nosed Snake is listed as a sensitive species. The habitat for the western hog-nosed snake is not well defined; however their year-round range includes most of the state east of the Rockies, so it is possible that they may be on the subject property. Any impact of the proposed action will be minimal in comparison to their entire range.

Milksnake is listed as a sensitive species. The proposed easement area has some characteristics that are common for the milksnake habitat. The Montana Field Guide shows an extensive range, that runs roughly east and south of the Missouri River. The proposed action is not expected to have a significant effect based on its extensive range and the relatively small easement area.

Based on the discussion above for each identified species, no significant impacts to unique or threatened species are expected.

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10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

This area was inventoried in 2006 for Coalbed Methane projects and no cultural resources were identified in those reports that included the subject property. Additionally, during the site visit by SLO staff in October of 2011, the easement area was walked and a visual survey was done to identify any potential cultural resources. No cultural resources were identified during that site visit. Therefore, no impacts to historical or archaeological sites are expected as a result of the proposed action.

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11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

The proposed railroad spur easement would require fill to be imported onto the Trust land and the rail bed would be 40-60 feet above the existing grade. There are no existing residential structures north of the Trust land that would have their view of the Tongue River impacted by the proposed action. The largest aesthetic impact would most likely be for travelers on Highway 314 having their view of the Tongue River valley obstructed by the fill. The Montana Department of Transportation had two traffic count stations on Highway 314 one which is located west of the Trust land, near Decker, with three year mean Average Daily Traffic (ADT) of 890 vehicles. The other count station is on the Trust land and its three year mean ADT is 1,100 vehicles. As a comparison, the three year mean ADT on I-90 just north of the Montana-Wyoming state line was 3,850 vehicles.

Due to the limited life of the coal mine, SLO is recommending that the easement be limited to a term of 40 years, so any impacts on aesthetics would be for the limited duration of the easement. Therefore, implementation of the proposed alternative is not expected to have a significant impact on aesthetics.

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12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

No significant impacts to environmental resources of land, water, air or energy are expected to occur as a result of implementing the proposed alternative.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

In July of 2008, the Southern Land Office approved Land Use License #6166 for Youngs Creek Mining Company. The LUL permitted YCMC to conduct right-of-way surveys, geotechnical investigation, weed survey and engineering analysis related to the proposed easement for the railroad spur on the subject property as well as Section 36, T9S, R39E. This LUL is still in effect and is currently set to expire on 28 February 2016.

There are no other studies currently being conducted on this tract by the State or known actions by any Federal agency. This tract does currently have producing Coalbed Methane wells and the SLO required YCMC to consult and coordinate with the State Oil & Gas lessee, Fidelity Exploration & Production, to ensure that the proposed action will not interfere with their existing operations.

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No significant impacts to human health and safety are expected as a result of implementing the proposed alternative. The tract does have an access road that crosses the proposed easement route and Youngs Creek Mining Company is proposing to install a single lane underpass to preserve vehicular access to lands located to the south of the Trust land.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

The proposed action would remove ±16.64 acres of land from grazing production, however there is not currently a state grazing lease on this tract and since it is not fenced, it is used by the adjoining land owners. This parcel's grazing production is less than the state average and the area that could be leased for grazing is small based on the other industrial uses, e.g., roads, railroads, coal mines, etc., that are located on it.

The proposed action would increase industrial production of coal in Wyoming since that is the location of the coal source. There is a potential that this railroad could be used in the future development of federal coal resources in Montana that are located north of Highway 314. No significant impacts to industrial, commercial and agricultural activities and production are expected to occur as a result of implementing the proposed alternative.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

The construction of the railroad spur would provide a short term economic stimulus. The mine, which is not located on Trust land, is expected to employ between 225-300 persons. There is a potential that some of these workers could live in Montana due to the fact that the mine is located less than a mile across the state line.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

MCA 15-6-145 may apply to the proposed action. If so, implementation of the proposed alternative would generate some increased tax revenue. However, at this time it is not known how much, if any, new revenue would be generated. Any impact of the railroad to local and state taxes would either be neutral or positive.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

The implementation of the proposed alternative is not expected to generate any significant additional demands on services provided by Big Horn County.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

The proposed alternative does not conflict with the 2002 Big Horn County Growth Policy. In addition, Big Horn County does not presently have zoning that encompasses the subject property.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

The portion of the Trust land where the easement is proposed may have some minor recreational use. However, due to the proximity of Highway 314 and the BNSF railroad, it is unlikely there is significant recreational use on the portion of the Trust land south of the Highway. No significant impacts to access to and quality of recreational and wilderness activates are expected to occur as a result of implementing the proposed alternative.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

No significant impacts to density and distribution of population and housing are expected to occur as a result of implementing the proposed alternative. Once the coal mine is operational, it is possible that some of the employees could live in Montana. If there were any new subdivisions aimed at employees of the mine, they would be reviewed and approved by the Big Horn County Board of County Commissioners.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

No significant impacts to social structures and mores are expected to occur as a result of implementing the proposed alternative.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

The proposed alternative would not directly impact cultural uniqueness or diversity.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The Common Schools Trust will benefit by getting a one-time fee from Youngs Creek Mining Company, LLC of $33,280 for the ±16.64 acre easement that would permit the railroad easement, as well as associated maintenance road, electrical and telecommunication installation. The Southern Land Office recommends that the easement be issued for a term of 40 years.

EA Checklist Prepared By:	**Name:**	Jeff Bollman, AICP	**Date:**	25 October 2011
	Title:	Area Planner, Southern Land Office		

V. FINDING

25. ALTERNATIVE SELECTED:

The proposed alternative has been selected and it is recommended that an easement for a term of 40 years be granted to Youngs Creek Mining Company, LLC. Additionally, it is recommended that a reclamation bond or some other type of surety be posted to cover the cost of removing the railroad at the end of the easement term. The proposed ±16.64 acre easement would permit the railroad easement, as well as associated maintenance road, electrical and telecommunication installation.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The potential for significant impacts to the State land is minimal based on the above analysis of the project. The only area that has potential for impact is the aesthetic impact for travelers on Highway 314 looking to the south towards the Tongue River valley. This impact would be due to the need to import fill on the subject Trust land to provide for a working grade for the railroad. However, as mentioned above, the impact would be of a limited nature due to the recommendation that this easement be granted for a term of 40 years. After the expiration, the easement area will be rehabilitated and returned to its original state.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

[ ]	EIS	[ ]	More Detailed EA	[X]	No Further Analysis

EA Checklist Approved By:	**Name:**	Matthew Wolcott		
	Title:	Area Manager, Southern Land Office		
Signature:	/s/ Matthew Wolcott		**Date**:	25 October 2011